

REMARKS

Claims 1-25 were pending in this patent application prior to this amendment. Claims 1, 3-7, 9, 10, 12-15, and 17-24 have been amended. New claim 26 has been added. Thus, claims 1-26 remain pending in the application after this amendment.

The Examiner has indicated that claims 21 and 24 would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Claim 23, from which claim 24 depends, has been amended herein to include all of the limitations of claim 24, and is, therefore, believed to be allowable. However, objected to claims 21 has not been rewritten into independent form since the base claim 17 from which it depends is believed allowable as explained below.

Reconsideration of the rejection of claims 1, 2, 7, 8, 11, 12, 16-20, 22, 23, and 25 under 35 U.S.C. 102(b) as being anticipated by U.S. Pat. No. 5,239,180 to Clarke ("Clarke") is requested. As indicated above claim 23 has been amended herein to include all of the limitations of claim 24, and is, therefore, believed to be allowable. It is believed that amended independent claims 1, 7, 12, 17, 22, and 25, and dependent claims 2, 8, 11, 16, and 18-20, are not anticipated by Clarke for the reasons given below.

Regarding claim 1, Clarke does not disclose or suggest "detecting the intensity of infrared electromagnetic radiation influenced by said organic substance *in ranges of wavelengths* corresponding to each of a subset of said (n) wavelength bands." Regarding claim 7, Clarke does not disclose or suggest "detecting the intensity of infrared electromagnetic radiation influenced by said vegetable seed oil *in ranges of wavelengths* corresponding to each of a subset of said (n) wavelength bands." Regarding claim 12, Clarke does not disclose or suggest "detecting the intensity of infrared electromagnetic radiation influenced by said milk fat *in ranges of wavelengths* corresponding to each of a subset of said (n) wavelength bands." (*Italics provided.*) Instead, as disclosed, for example, at col. 1, lines 56-67 and col. 3, lines 30-55, Clarke teaches illuminating food materials at a plurality of discrete wavelengths and detecting the intensity of light reflected by the food materials at each of said plurality of discrete wavelengths, not "in ranges of wavelengths" as required by claims 1, 7, and 12.

Regarding claim 17, Clarke does not disclose or suggest "detecting the intensity of infrared electromagnetic radiation influenced by said organic substance *in ranges of wavelengths* corresponding to each of a subset of said (n) infrared absorption bands." (*Italics provided.*)

Instead, as indicated above, Clarke teaches illuminating food materials at a plurality of discrete wavelengths and detecting the intensity of light reflected by the food materials at each of said plurality of discrete wavelengths, not “in ranges of wavelengths” as required by claim 17. Additionally, Clarke does not disclose or suggest “detecting the intensity of infrared electromagnetic radiation influenced by said organic substance ... in ranges of wavelengths corresponding to each of a subset of *said one or more reference wavelength bands*” in combination with “said organic substance does not substantially absorb said infrared electromagnetic radiation in *said one or more reference wavelength bands*” as required by claim 17. (*Italics provided.*) There is no disclosure whatsoever in Clarke of “reference wavelength bands,” where “said organic substance does not substantially absorb said infrared electromagnetic radiation.”

Regarding claim 22, Clarke does not disclose or suggest “illuminating said food product with infrared electromagnetic radiation from *an IR source.*” (*Italics provided.*) Instead, Clarke discloses multiple discrete wavelength lasers, not “an IR source.” Clarke does not disclose or suggest “passing infrared electromagnetic radiation influenced by said organic substance through a filter so that only electromagnetic radiation in ranges of wavelengths corresponding to a subset of said (n) wavelength bands is allowed to pass to a detector.” There is no disclosure whatsoever in Clarke of “passing infrared electromagnetic radiation influenced by said organic substance through a filter ...”

Regarding claim 25, Clarke does not disclose or suggest “detecting the intensity of said infrared electromagnetic radiation that is influenced by said organic substance *in a range of wavelengths* corresponding to one of said absorption bands.” Instead, as indicated above, Clarke teaches illuminating food materials at a plurality of discrete wavelengths and detecting the intensity of light reflected by the food materials at each of said plurality of discrete wavelengths, not “in a range of wavelengths” as required by claim 25. Additionally, Clarke does not disclose or suggest “detecting the intensity of said infrared electromagnetic radiation that is influenced by said organic substance in ... a range of wavelengths corresponding to one of said reference wavelength bands” in combination with “said organic substance does not substantially absorb said infrared electromagnetic radiation.” There is no disclosure whatsoever in Clarke of “reference wavelength bands,” where “said organic substance does not substantially absorb said infrared electromagnetic radiation.”

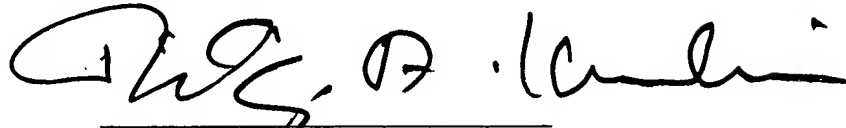
Accordingly, applicants respectfully submit that amended independent claims 1, 7, 12, 17, 22, and 25, and dependent claims 2, 8, 11, 16, and 18-20, are not anticipated by, and hence withdrawal of the 35 U.S.C. 102(b) rejection thereof is respectfully requested.

New claim 26 is believed to be allowable over the prior art because the prior art does not disclose or suggest "a detector operable to detect the intensity of infrared electromagnetic radiation influenced by said organic substance in ranges of wavelengths corresponding to each of a subset of said (n) wavelength bands."

In view of the foregoing amendment and supporting remarks, the subject application is now deemed to be in condition for allowance, and such action is respectfully requested. The rejection of remaining claims 3-6, 9, 10, and 13-15 is rendered moot because these claims depend from claims 1, 7, and 12 which are in condition for allowance. If the Examiner believes that a telephonic interview would expedite the allowance of this application, he is requested to contact the undersigned for a prompt resolution of any outstanding issues.

Applicants believe that no fees are required due to this amendment. It is respectfully requested that, if necessary to effect a timely response, this paper be considered as a Petition for an Extension of Time sufficient to effect a timely response, and shortages and other fees be charged, or any overpayment in fees be credited, to the Account of Barnes & Thornburg, Deposit Account No. 10-0435, with reference to file 3220-73090.

Respectfully submitted,
BARNES & THORNBURG



Dilip A. Kulkarni
Reg. No. 27,510

Indianapolis, Indiana
Tel: 317-231-7419
Fax: 317-231-7433
Email: dilip.kulkarni@btlaw.com